

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CINCINNATI BELL LONG DISTANCE, INC., FOR)
AUTHORITY TO EXPAND THEIR MARKET AREA) CASE NO. 89-363

O R D E R

On November 16, 1989, Cincinnati Bell Long Distance, Inc. ("CBLD") filed a proposed tariff that would expand its market area to include the entire Commonwealth of Kentucky. The tariff was suspended by Order dated December 15, 1989, primarily because it was not clear how CBLD could comply with the Commission's policies concerning intraLATA¹ competition. WATS² resellers are permitted to compete in the intraLATA market only by virtue of their resale of intrastate WATS. If CBLD's only switching location is Cincinnati, Ohio, it was not apparent how CBLD could use intrastate WATS to transport traffic to Ohio and that the resale of interstate services would be required in order to accomplish this. However, competition in the intraLATA market through the resale of interstate services has not been authorized by the Commission. It should be noted that the Commission has authorized full interLATA competition in Administrative Case

¹ Local Access and Transport Area.

² Wide Area Telecommunications Services.

No. 273;³ therefore, CBLD's provision of interLATA services through the resale of interstate services is not an issue in this proceeding.

CBLD provided additional information by letter dated November 21, 1989. This letter confirmed that CBLD's switching center is in Cincinnati, Ohio, and further indicated that intraLATA services would be provided through the resale of intraLATA WATS obtained from the local exchange carriers. However, the letter failed to clarify how CBLD could use intraLATA WATS to transport calls to Ohio and then back to Kentucky, since by definition, these services can only be used to transport calls within a LATA, and cannot be used to transport calls across a LATA boundary. CBLD filed additional information by letter dated December 22, 1989; however, this letter also failed to provide adequate clarification.

On January 18, 1990, CBLD filed a request for exemption from the Commission's policies to allow CBLD to process intraLATA calls in Kentucky through its existing switching center in Cincinnati. In this request, CBLD indicated its belief that the requirement to transport intraLATA calls using only intraLATA WATS to be a "Catch-22" situation, and that the only way to satisfy the Commission's policies would be to install a switch within a LATA, and suggested that this was not the Commission's intent. It further noted that the most cost effective way to

³ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

provide intraLATA services is to use its existing switch in Cincinnati and that the cost of installing switches in each Kentucky LATA would be approximately \$2.4 million. CBLD noted that the primary threat of intraLATA competition is from facilities-based competition, which could lead to stranded local exchange carrier investment, and unnecessary duplication of facilities. CBLD indicated that the latter concern does not apply to CBLD as it does not own any transmission facilities, but instead leases transmission capacity from underlying common carriers. CBLD also noted that its intraLATA operations would not result in stranded local exchange carrier investment because it would use local exchange carrier access services to originate and terminate intraLATA calls. CBLD acknowledged that facilities-based carriers would collect revenues by leasing facilities to CBLD to transport calls to its Cincinnati switch; however, it felt that the local exchange carriers would not experience revenue losses because these are interLATA calls which the local exchange carriers do not process. Finally, CBLD noted that a similar exemption was recently granted to LDD, Inc. ("LDD") in Case No. 89-017.⁴

The Commission recognizes the difficulties faced by WATS resellers in complying with the Commission's requirements;

⁴ Case No. 89-017, The Application of LDD, Inc. for the Issuance of a Certificate of Public Convenience and Necessity to Operate as a Reseller of Telecommunications Services Within the Commonwealth of Kentucky and the Application of DCI, Inc. for the Issuance of a Certificate of Public Convenience and Necessity to Provide Intrastate, InterLATA Telecommunications Services to the Public as a Facilities-Based, Non-Dominant InterLATA Carrier.

however, CBLD is reminded that intraLATA competition within Kentucky is prohibited, except through the resale of WATS. The fact that there may be technical or economic difficulties associated with WATS resale is not sufficient justification for expanding the Commission's policies on intraLATA competition. In this respect, the Commission finds CBLD's arguments to be unpersuasive. However, as CBLD noted, the Commission recently granted LDD an exemption in Case No. 89-017. In that proceeding, LDD had an existing switch in Cape Girardeau, Missouri, which, similar to CBLD, necessitated the use of interstate facilities to transport Kentucky jurisdictional traffic. The Commission initially rejected this configuration as being inconsistent with its policies. However, upon reconsideration, the Commission allowed LDD to delay the installation of a Kentucky switch until a decision is reached in Administrative Case No. 323,⁵ as a decision in that case could make the issues in Case No. 89-017 moot. If that were to occur, LDD would have spent \$350,000 in unnecessary switching equipment. Furthermore, as LDD had indicated that all intraLATA calls would originate on local exchange carrier Feature Groups A, B, and D switched access services and terminate via local exchange carrier WATS, the Commission found that granting LDD's request would have little or no adverse effect on any Kentucky local exchange carrier.

⁵ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

The Commission finds that the rationale applied in Case No. 89-017 is applicable in the instant case, provided that CBLD originates intraLATA traffic on local exchange carrier access services and terminates such traffic via local exchange carrier WATS. If CBLD can provide intraLATA services in this manner, the Commission will grant CBLD's request to use its existing switch in Cincinnati, pending the release of a decision in Administrative Case No. 323. As in the case with LDD, CBLD will be required to maintain records reflecting that its intraLATA traffic volumes reasonably correspond to its purchase of local exchange carrier services.

IT IS THEREFORE ORDERED that:

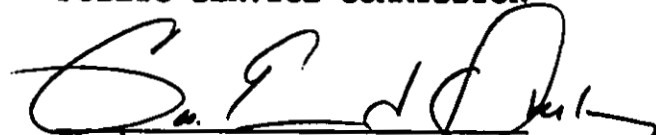
1. CBLD shall file a statement within 30 days of the date of this Order stating that it can and will provide intraLATA services by originating such traffic on local exchange carrier access services and terminate intraLATA traffic using local exchange carrier WATS.

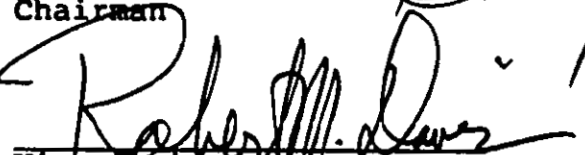
2. If CBLD complies with ordering paragraph 1, CBLD shall be allowed to provide intraLATA services in all Kentucky LATA's pending a decision in Administrative Case No. 323. Within 30 days of the release of a decision in that proceeding, CBLD shall file evidence that its network is in compliance with Commission policies.

3. If CBLD is unable to comply with ordering paragraph 1, it shall refile its tariff to reflect interLATA operating only in all Kentucky LATAs except the Cincinnati LATA within 30 days of the date of this Order.

Done at Frankfort, Kentucky, this 8th day of March, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director